WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2714

(By Delegates H. White, Hrutkay and R. M. Thompson)

Passed March 6, 2003

In Effect Ninety Days from Passage
AN ACT to amend and reenact section eight-c, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the donation of fire fighting and fire rescue equipment and insurance policies dealing with immunity coverage provisions.

Be it enacted by the Legislature of West Virginia:

That section eight-c, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-8c. Donation of equipment.
(a) Effective the first day of July, two thousand two, no
person, company or other organization who donates fire control
or rescue equipment, including federal excess or surplus
property, to a volunteer fire department is subject to civil
liability for any personal injury, property damages or death
resulting from any defect in the equipment unless the person,
company or organization acted with malice, gross negligence,
recklessness or intentional misconduct which proximately
caused the personal injury, property damages or death.

(b) For purposes of this section, “fire control or rescue
equipment” means a vehicle, fire fighting tool, protective gear,
breathing apparatus or other supply or tool used in fire fighting
or fire rescue. No breathing apparatus may be donated unless,
prior to the donation, it has been recertified to the manufac-
turer’s specifications by a technician approved by the manufac-
turer.

(c) Unless the insured has executed a specific written
rejection of such coverage in the policy, any insurer who has
sold, issued or delivered an insurance policy providing liability
coverage to any person, company or other organization who
donates fire control or rescue equipment is barred and estopped
from asserting the civil immunity granted to the insured by this
section against claims or suits covered by the terms of the
policy, up to the limits of the policy.

The limitation on civil liability set forth in the provisions of
this section applies only to policies of insurance issued or
renewed on or after the first day of July, two thousand one.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 18th day of March, 2003.

Governor